IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN

MONDAY, THE 15TH JANUARY 2007 / 25TH PAUSHA 1928

WP(C).No. 1642 of 2007(U)

PETITIONER:

M/S.U.K.TRADERS,
N.H.ROAD, M.P.1077, UPPALA P.O.,
KASARAGOD, REPRESENTED BY ITS PROPRIETOR,
YOOSUF.U.K.

BY ADV. SRI.K.SRIKUMAR
SRI.K.MANOJ CHANDRAN

RESPONDENTS:
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1. THE COMMERCIAL TAX OFFICER-I,
KASARGOD.

2. THE DEPUTY COMMISSIONER OF COMMERCIAL
TAXES (APPEALS), KOZHIKODE.

3. THE INSPECTING ASSISTANT COMMISSIONER,
OFFICE OF THE INSPECTING ASSISTANT COMMISSIONER,
COMMERCIAL TAXES, KASARAGOD.

BY GOVERNMENT PLEADER SRI.SOJAN JAMES

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 15/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.R.RAMAN, J.

W.P.(C) NO. 1642 OF 2007

Dated this the 15th day of January, 2007

J U D G M E N T

Petitioner is impugning an interim order dated 15/12/2006 produced as Exhibit P5 in this case passed by the appellate authority namely the Deputy Commissioner, (Appeals) imposing a condition to pay 50% of the amount due pending consideration of the appeal for granting a stay of recovery of the balance amount. The contention is that the stay order has been passed in a mechanical way. The petitioner points out that as per Exhibit P1 assessment order huge additions were made on penalty order which penalty order has since been set aside by the revisional authority. Though the matter is still pending for fresh consideration in the matter of penalty, as of now there is no penalty order. At page 3 of the assessment order the additions are made relying on the penalty for an amount of Rs.2,91,982/-. Besides three times of the above amount has been added towards probable omission and supression. Therefore, it is contended that the additions based on the penalty order have no legs to stand as of now which ought to have been taken into consideration

while passing the interim order by the appellate authority.

2. Heard the learned Government Pleader.

3. In the facts and circumstances as noticed above, it appears that the order passed by the appellate authority Exhibit P5 requires modification to meet the ends of justice. Accordingly, if the petitioner pays an amount of Rs.1,50,000/- within a period of three weeks from today, there will be a stay for recovery of the balance amount, further the petitioner is also directed to furnish a bond towards security for the balance amount. In case he fails to pay the said amount and furnish the bond, petitioner will lose the benefit of this order. Exhibit P5 will stand modified as above.

Writ petition is disposed of as above.

P.R.RAMAN, JUDGE

Rp